

## Senate Bill No. 492

### CHAPTER 387

An act to amend Section 65585.1 of the Government Code, relating to housing.

[Approved by Governor September 9, 2004. Filed with Secretary of State September 9, 2004.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 492, Ducheny. Housing: funds.

The existing Housing and Emergency Shelter Trust Fund Act of 2002 prescribes the allocation of bond money deposited in the Housing and Emergency Shelter Trust Fund by, among other agencies, the Department of Housing and Community Development. Existing law authorizes any city or county within the jurisdiction of the San Diego Association of Governments, until June 30, 2009, to self-certify its general plan housing element, as prescribed, and makes those cities and counties that are self-certified fully eligible, until January 1, 2010, to participate in any program created by, or receiving funds through, the Housing and Emergency Shelter Trust Fund Act of 2002 in an identical manner and to the same degree as those local jurisdictions deemed in substantial compliance with the requirements relating to housing elements that are reviewed by the department rather than being self-certified.

This bill would extend the authority for that self-certification until June 30, 2010.

*The people of the State of California do enact as follows:*

SECTION 1. Section 65585.1 of the Government Code is amended to read:

65585.1. (a) The San Diego Association of Governments (SANDAG), if it approves a resolution agreeing to participate in the self-certification process, and in consultation with the cities and county within its jurisdiction, its housing element advisory committee, and the department, shall work with a qualified consultant to determine the maximum number of housing units that can be constructed, acquired, rehabilitated, and preserved as defined in paragraph (11) of subdivision (e) of Section 33334.2 of the Health and Safety Code, and the maximum number of units or households that can be provided with rental or ownership assistance, by each jurisdiction during the third and fourth

housing element cycles to meet the existing and future housing needs for low- and very low income households as defined in Sections 50079.5, 50093, and 50105 of the Health and Safety Code, and extremely low income households. The methodology for determining the maximum number of housing units that can be provided shall include a recognition of financial resources and regulatory measures that local jurisdictions can use to provide additional affordable lower income housing. This process is intended to identify the available resources that can be used to determine the maximum number of housing units each jurisdiction can provide. The process acknowledges that the need to produce housing for low-, very low, and extremely low income households may exceed available resources. The department and SANDAG, with input from its housing element advisory committee, the consultant, and local jurisdictions, shall agree upon definitions for extremely low income households and their affordable housing costs, the methodology for the determination of the maximum number of housing units and the number each jurisdiction can produce at least one year before the due date of each housing element revision, pursuant to paragraph (4) of subdivision (e) of Section 65588. If SANDAG fails to approve a resolution agreeing to participate in this pilot program, or SANDAG and the department fail to agree upon the methodology by which the maximum number of housing units is determined, then local jurisdictions may not self-certify pursuant to this section.

(1) The “housing element advisory committee” should include representatives of the local jurisdictions, nonprofit affordable housing development corporations and affordable housing advocates, and representatives of the for-profit building, real estate and banking industries.

(2) The determination of the “maximum number of housing units” that the jurisdiction can provide assumes that the needs for low-, very low, and extremely low income households, including those with special housing needs, will be met in approximate proportion to their representation in the region’s population.

(3) A “qualified consultant” for the purposes of this section means an expert in the identification of financial resources and regulatory measures for the provision of affordable housing for lower income households.

(b) A city or county within the jurisdiction of the San Diego Association of Governments that elects not to self-certify, or is ineligible to do so, shall submit its housing element or amendment to the department, pursuant to Section 65585.

(c) A city or county within the jurisdiction of the San Diego Association of Governments that elects to self-certify shall submit a



self-certification of compliance to the department with its adopted housing element or amendment. In order to be eligible to self-certify, the legislative body, after holding a public hearing, shall make findings, based on substantial evidence, that it has met the following criteria for self-certification:

(1) The jurisdiction's adopted housing element or amendment substantially complies with the provisions of this article, including addressing the needs of all income levels.

(2) For the third housing element revision, pursuant to Section 65588, the jurisdiction met its fair share of the regional housing needs for the second housing element revision cycle, as determined by the San Diego Association of Governments.

In determining whether a jurisdiction has met its fair share, the jurisdiction may count each additional lower income household provided with affordable housing costs. Affordable housing costs are defined in Section 6918 for renters, and in Section 6925 for purchasers, of Title 25 of the California Code of Regulations, and in Sections 50052.5 and 50053 of the Health and Safety Code, or by the applicable funding source or program.

(3) For subsequent housing element revisions, pursuant to Section 65588, the jurisdiction has provided the maximum number of housing units as determined pursuant to subdivision (a), within the previous planning period.

(A) The additional units provided at affordable housing costs as defined in paragraph (2) in satisfaction of a jurisdiction's maximum number of housing units shall be provided by one or more of the following means:

(i) New construction.

(ii) Acquisition.

(iii) Rehabilitation.

(iv) Rental or ownership assistance.

(v) Preservation of the availability to lower income households of affordable housing units in developments which are assisted, subsidized, or restricted by a public entity and which are threatened with imminent conversion to market rate housing.

(B) The additional affordable units shall be provided in approximate proportion to the needs defined in paragraph (2) of subdivision (a).

(4) The city or county provides a statement regarding how its adopted housing element or amendment addresses the dispersion of lower income housing within its jurisdiction, documenting that additional affordable housing opportunities will not be developed only in areas where concentrations of lower income households already exist, taking



into account the availability of necessary public facilities and infrastructure.

(5) No local government actions or policies prevent the development of the identified sites pursuant to Section 65583, or accommodation of the jurisdiction's share of the total regional housing need, pursuant to Section 65584.

(d) When a city or county within the jurisdiction of the San Diego Association of Governments duly adopts a self-certification of compliance with its adopted housing element or amendment pursuant to subdivision (c), all of the following shall apply:

(1) Section 65585 shall not apply to the city or county.

(2) In any challenge of a local jurisdiction's self-certification, the court's review shall be limited to determining whether the self-certification is accurate and complete as to the criteria for self-certification. Where there has not been a successful challenge of the self-certification, there shall be a rebuttable presumption of the validity of the housing element or amendment.

(3) Within six months after the completion of the revision of all housing elements in the region, the council of governments, with input from the cities and county within its jurisdiction, the housing element advisory committee, and qualified consultant shall report to the Legislature on the use and results of the self-certification process by local governments within its jurisdiction. This report shall contain data for the last planning period regarding the total number of additional affordable housing units provided by income category, the total number of additional newly constructed housing units, and any other information deemed useful by SANDAG in the evaluation of the pilot program.

(e) This section shall become inoperative on June 30, 2010, and as of January 1, 2011, is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

